

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION****PART I: GENERAL INFORMATION**

Requestor's Name and Address:  LAKE POINTE MEDICAL CENTER PO BOX 809053 DALLAS TX 75380-9053	MFDR Tracking #:	M4-04-3156-01
	DWC Claim #:	
	Injured Employee:	
Respondent Name and Box #:  American Home Assurance Co. Box #: 19	Date of Injury:	
	Employer Name	
	Insurance Carrier #:	

**PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Requestor's Position Summary:** "Carrier paid the TWCC fee guideline amount for all of these items, with the explanation 'fair and reasonable.' However, other items on the bill that were not listed in the fee guideline, were paid at 75% of the billed amount. This is an outpatient bill, from a facility, billed on a UB92. The TWCC fee guidelines do not apply. TWCC Rule 134.401(a)(3) states 'Services such as outpatient physical therapy, radiological studies, and laboratory studies are not covered by this guideline and shall be reimbursed at a fair and reasonable rate until the issuance of a fee guideline addressing these specific services.'

26% of the bill cannot be considered a fair or reasonable amount. I have enclosed seven redacted EOBs from a number of carriers. One paid lab and x-ray at 75%. Five paid at 80%, and one at 84%. The charges on this patient's bill reflect the same charges we would post to any patient's bill. They were not 'inflated' because of the carrier to whom it is submitted. As you can see, we commonly receive payment greater than 26% of charges."

**Principle Documentation:**

1. DWC 60 Package
2. Total Amount Sought - \$1,232.36
3. Hospital Bill
4. EOBs
5. Medical Records

**PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

**Respondent's Position Summary:** "It appears the provider is questioning our fair and reasonable reimbursement. I've enclosed several EOBs demonstrating that a number of providers have accepted our methodology of reimbursement as fair and reasonable. "

**Principle Documentation:**

1. Response to DWC 60

**PART IV: SUMMARY OF FINDINGS**

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
12/12/2003	M, 426	Emergency Room Visit	\$1,232.36	\$0.00
Total Due:				\$0.00

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Use of the Fee Guidelines*, effective May 16, 2002 set out the reimbursement guidelines.

1. For the services involved in this dispute, the respondent reduced or denied payment with reason code M – “Reduced to fair and reasonable”; and 426 – “Reimbursed to fair and reasonable.”
2. This dispute relates to an outpatient emergency room visit including laboratory and radiological services provided in a hospital setting with reimbursement subject to the provisions of Division Rule at 28 TAC §134.1, 27 TexReg 4047 (May 10, 2002) which requires that “reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates as described in the Texas Workers’ Compensation Act, §413.011”...
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. Review of the *Table of Disputed Services* finds that the requestor has listed “No MAR” at the top of the column labeled “Medical Fee Guideline MAR” but then goes on to list a MAR amount for each disputed service. Per Division rule at 28 TAC §134.401(a)(3), effective August 1, 1997, 22 TexReg 6264, “Services such as outpatient physical therapy, radiological studies, and laboratory studies are not covered by this guideline and shall be reimbursed at a fair and reasonable rate”... Additionally, subsection 134.401(a)(5) states that “Emergency services that do not lead to an inpatient admission are not covered by this guideline and shall be reimbursed at a fair and reasonable rate”... Review of the documentation finds that the services provided were emergency services including radiological studies and laboratory studies that are not covered by a specific Division fee guideline and thus do not have a MAR.
5. Division Rule at 28 TAC §133.307(g)(3)(D), effective January 2, 2002, 26 TexReg 10934; amended to be effective January 1, 2003, 27 TexReg 12282, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §133.1 of this title (relating to Definitions) and §134.1 of this title (relating to Use of the Fee Guidelines)”. The requestor has not stated explicitly what method should be used to determine a fair and reasonable rate of reimbursement. Although the requestor states “26% of the bill cannot be considered a fair or reasonable amount” and “As you can see, we commonly receive payment greater than 26% of charges” the requestor does not offer a methodology of its own for consideration. The requestor does state that “other items on the bill that were not listed in the fee guideline, were paid at 75% of the billed amount.” Review of the *Table of Disputed Services* finds that the amount that the requestor lists as the “MAR” for each disputed service is 75% of the billed charge, and the amount in dispute for each service is 75% of the billed charge less the amount previously paid for each service. A methodology based on a percentage of billed charges does not, however, produce an acceptable payment amount. This methodology was considered and rejected by the Division in another fee guideline adoption preamble which states at 22 *Texas Register* 6276 (July 4, 1997) that “A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources.” Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment in the amount of 75% of the billed charges would be a fair and reasonable rate of reimbursement for the services in dispute. Therefore, reimbursement in the amount of 75% of the provider’s billed charges cannot be recommended.
6. Further review of the documentation submitted by the requestor finds that the requestor has not addressed how payment of the amount sought would meet the requirements of 28 TAC §134.1 and Texas Labor Code §413.011(d). The requestor does not discuss or explain how reimbursement at the amount sought would ensure the quality of medical care, achieve effective medical cost control or otherwise satisfy the statutory requirements and Division rules. Thorough review of the documentation submitted by the requestor finds that the requestor has not discussed, demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional reimbursement cannot be recommended.
7. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that the requestor failed to meet its burden of proof to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code § 413.011(a-d), § 413.031 and § 413.0311  
28 Texas Administrative Code §133.307, §134.1, §134.401  
Texas Government Code, Chapter 2001, Subchapter G

**PART VII: DIVISION DECISION AND/OR ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the Requestor is not entitled to additional reimbursement for the services involved in this dispute.

**DECISION:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

**VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**